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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**
10

11 UNITED STATES OF AMERICA,
12 Plaintiff,
13 v.
14 MARTIN GARCIA,
15 Defendant.
16

Case No. 2:16-cr-00348-RFB-3

**STIPULATION TO CONTINUE
DEADLINES**
(First Request)

17 IT IS HEREBY STIPULATED AND AGREED, by and between Nicholas A.
18 Trutanich, United States Attorney, and Elizabeth O. White, Assistant United
19 States Attorney, counsel for the United States of America, and Rene L.
20 Valladares, Federal Public Defender, and Aarin E. Kevorkian, Assistant Federal
21 Public Defender, counsel for Martin Garcia, that the following due dates, as
22 ordered by this Court [ECF. No. 93] be extended.

23 IT IS FURTHER STIPULATED AND AGREED, by and between the
24 parties, that the Defendant's Motion for Reduction of Sentence under *United*
25 *States v. Davis*, 139 S. Ct. 2319 (2019), which is currently due September 20,
26

2019, and the Government's Response, which is currently due October 4, 2019, be stayed pending a final decision in *United States v. Dominguez*, No. 14-10268 (9th Cir.), which is currently scheduled for oral argument on December 10, 2019. However, in light of the one-year deadline to petition for habeas relief under *Davis*, any stay must be lifted in sufficient time to allow Mr. Garcia to seek relief prior to the June 23, 2020, filing deadline, regardless of the status of *Dominguez*.

IT IS FURTHER STIPULATED AND AGREED, by and between the parties, that the Defendant's Motion for Reduction of Sentence under *Davis* be due on the earlier of 30 days following issuance of a final decision in *Dominguez*, or June 23, 2020; and the Government's Response be due 14 days after the Defendant's Motion for Reduction of Sentence is filed.

The Stipulation is entered into for the following reasons:

1. *United States v. Dominguez* is the leading case in the Ninth Circuit to address whether actual and attempted Hobbs Act robbery under 18 U.S.C. § 1951 qualify as a crime of violence under the elements clause of 18 U.S.C. § 924(c)(3)(a). Counsel anticipate that a final decision in *Dominguez* may control the issue raised by the Defendant, and therefore, continuing the deadline for the Defendant's Motion for Reduction of Sentence will be in the interest of judicial efficiency.

2. Counsel for the Defendant needs additional time to make contact with the Defendant who is incarcerated by the Bureau of Prisons at FCI Victorville Medium II, where it has been difficult to arrange any confidential legal calls with Defendant and to receive legal mail from Defendant. Without the ability to communicate freely and fully with Defendant, it is, unfortunately, not

possible for defense counsel to comply with the deadlines previously set by the Court in this matter.

3. The parties agree to the continuance of the deadlines as set forth herein.

4. This is the first stipulation to continue the deadlines relative to Defendant's *Davis* motion.

DATED this 17th day of September, 2019.

RENE L. VALLADARES
Federal Public Defender

NICHOLAS A. TRUTANICH
United States Attorney

By: /s/ Aarin E. Kevorkian

By: /s/ Elizabeth O. White

AARIN E. KEVORKIAN
Assistant Federal Public Defender

ELIZABETH O. WHITE
Assistant United States Attorney

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 UNITED STATES OF AMERICA,
4

5 Plaintiff,

6 v.

7 MARTIN GARCIA,
8

9 Defendant.

Case No. 2:16-cr-00348-RFB-3

FINDINGS OF FACT AND ORDER

9 FINDINGS OF FACT

10 Based on the pending Stipulation of counsel, and good cause appearing
11 therefore, the Court finds that:

12 1. A final decision in *United States v. Dominguez*, No. 14-10268 (9th
13 Cir.), may control the issue raised by the Defendant, and therefore, continuing the
14 deadline for the Defendant's Motion for Reduction of Sentence until after a final
15 decision in *Dominguez* issues will be in the interest of judicial efficiency.

16 2. Counsel for the Defendant needs additional time to make contact with
17 the Defendant who is incarcerated by the Bureau of Prisons at FCI Victorville
18 Medium II, where it has been difficult to arrange confidential legal calls with
19 Defendant and to receive legal mail from Defendant. Without the ability to
20 communicate freely and fully with Defendant, it is not possible for defense counsel
21 to comply with the deadlines previously set by the Court in this matter.

22 2. The parties agree to the continuance of the deadlines as set forth
23 herein.

24 3. This is the first stipulation to continue the deadlines relative to
25 Defendant's *Davis* motion.

ORDER

IT IS THEREFORE ORDERED that the Defendant's Motion for Reduction of Sentence is due on the earlier of 30 days following the issuance of a final decision in *United States v. Dominguez*, No. 14-10268 (9th Cir.), or June 23, 2020; and the Government's Response is due 14 days after the Defendant's Motion for Reduction of Sentence is filed.

DATED this 17th day of October, 2019, *nunc pro tunc*.



RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE